

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

February 14, 2002

OFFICE OF  
MANAGING DIRECTOR

Jeremy Lansman, President  
Fireweed Communications Corporation.  
3700 Woodland Drive, #800  
Anchorage, Alaska 99517

Re: Request for Waiver of FY 2001  
Regulatory Fee  
Fee Control No. 0109258835885003

Dear Mr. Lansman:

This letter denies your petition for reconsideration of the letter ruling dated December 12, 2001, which denied your request for a waiver and refund of the Fiscal Year (FY) 2001 regulatory fee in the amount of \$4,375 submitted on behalf of television station KYES, Anchorage, Alaska, licensed to Fireweed Communications Corporation.

In our previous ruling, we stated that though the Commission will waive its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship," see Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995), our review of your financial documentation did not support your waiver request. In particular, we pointed out that you showed a net profit of over \$77,000 in 2000 and although you showed a net loss of over \$109,000 in 2001, you also listed depreciation expense of over \$20,000 and salaries of nearly \$270,000 that year, without indicating how much of the latter figure represents compensation to corporate officers. We explained that:

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money that is considered to be available to pay the regulatory fee.

In your petition, you state that you and your wife wholly own the licensee corporation and serve as its officers. You add that, for the past three years (1999 to 2001), you each received a salary of \$72,000, for a combined total of \$144,000 per year. You contend that you had an outstanding program liability of nearly \$1.9 million at the end of 2000, that you operate in a very competitive market, and that payment of the regulatory fee will impair your capacity to serve the public interest because it will affect your ability to fund improvements.

Jeremy Lansman, President

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Your petition does not establish a compelling case of financial hardship or provide a basis to reconsider the denial of your waiver request. Although your latest profit and loss statement (for 2001) showed a loss of \$109,396, your recent submission confirms that this loss resulted from depreciation expense of \$20,140 and compensation of \$144,000 paid to corporate officers. In other words, Fireweed had money based on its accounting deduction for depreciation and payments to its officers from which it could pay the regulatory fee. Therefore, your petition for reconsideration is denied.

If you have any questions concerning this letter, please contact the Revenue and Receivable Operation Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger  
Chief Financial Officer

0109250855000-003

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re: Request for Waiver of FY 2001 Regulatory Fee  
Fee Control No. 0109258835885003

To: Office of Managing Director

PETITION FOR RECONSIDERATION

Fireweed Communications Corporation submitted a request for waiver of the FY 2001 regulatory fee along with payment of the fee. In that request I stated that Fireweed had compelling financial hardship, and submitted financial data support the request. In response, in a letter signed for Mark A. Reger, Chief Financial Officer of the Federal Communications Commission, dated December 12, 2001, you said "Although your statement shows a loss... you also list ... salaries of [REDACTED] without indicating how much of the latter figure represents compensation to corporate officers. Therefore we cannot conclude that you have presented a compelling case of financial hardship." This is a response to that statement.

Carol E. Schatz and myself, Jeremy D. Lansman, husband and wife, together own 100% of the corporation and all its assets. Broadcasting is our only business, and we both work at it full time. At the moment Carol fulfills the role of General Manager, Sales manager, Program Director. I deal with regulatory affairs, perform all engineering, information technology, and regulatory tasks. The station has no other engineers.

Below is a list of the compensation from the corporation to its officers (Carol and myself) in each and every year the station has been on the air. These figures are gathered from the corporate IRS tax return.

Our salary, at present, pretax, is [REDACTED] annually each. Salary in 2000 was identical. At 2000 year end the company still owed us [REDACTED] remaining debt incurred from starting the company. What disbursements were made to us from the corporation in the past have been used to pay taxes in those years KYES made profit, as this is a sub S corporation, and we must pay taxes on its profit, if any. Total payments to us including disbursements and salary in the years since we first illuminated the otherwise dark channel 5 have been [REDACTED] pre tax dollars over the full 10 years. Stockholders equity in the form of loans from shareholders remaining from cash infused into the station in the early years equals [REDACTED] as listed in our IRS return. Thus:

Total salary:

Still owing:

Net Pre Tax Receipts to Shareholders:

Net average Pre Tax Receipts from corp. per year to Shareholders: [REDACTED] per year

Net average Pre Tax Receipts from corp. per year per Shareholder:

per year.

To put all this in context, our year 2000 tax filing shows at years end an outstanding program liability of [REDACTED]. Our market, Anchorage, has 130,800 households. It also has 6 full time full power commercial TV stations; KTUU-NBC, KTBY-Fox, KYES (us) UPN, KTVA-CBS, KIMO, ABC and KDMD, PAX. In addition, KCFT-CA sells advertising time, and can count as a 7<sup>th</sup> commercial TV station. We believe no market is as competitive as this (number of competing signals per TV Household for 18,571 homes per competing signal). We are the only full service full power locally owned station in our market.

Certainly payment of the regulatory fee will not cause the station significant additional financial hardship, for hardship is endemic to this situation. Is our situation a "compelling case of financial hardship"? We believe it is. Moreover, would the regulatory fee impact our ability to serve the public interest? Of course it would, as our personal fortunes directly affect our ability to fund improvements that make public service possible.

For reasons given above, we respectfully request reconsideration of our request for relief via waiver of the year 2001 regulatory fee.

Submitted December 29, 2001

By: Jeremy Lansman  
President, Fireweed Communications Corporation